Supreme Court, U.S.
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Nos. 87-1939 and 87-2008

In The

Supreme Court of the United States

October Term, 1987

GEOFFREY W. BARNARD, AS CHAIRMAN OF THE COMMITTEE OF BAR EXAMINERS OF THE VIRGIN ISLANDS,
Petitioner,

v.

SUSAN ESPOSITO THORSTENN *et al.*,
Respondents.

VIRGIN ISLANDS BAR ASSOCIATION,
Petitioner,

v.

SUSAN ESPOSITO THORSTENN *et al.*,
Respondents.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

JOINT APPENDIX

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Certiorari filed May 23, 1988 and June 8, 1988
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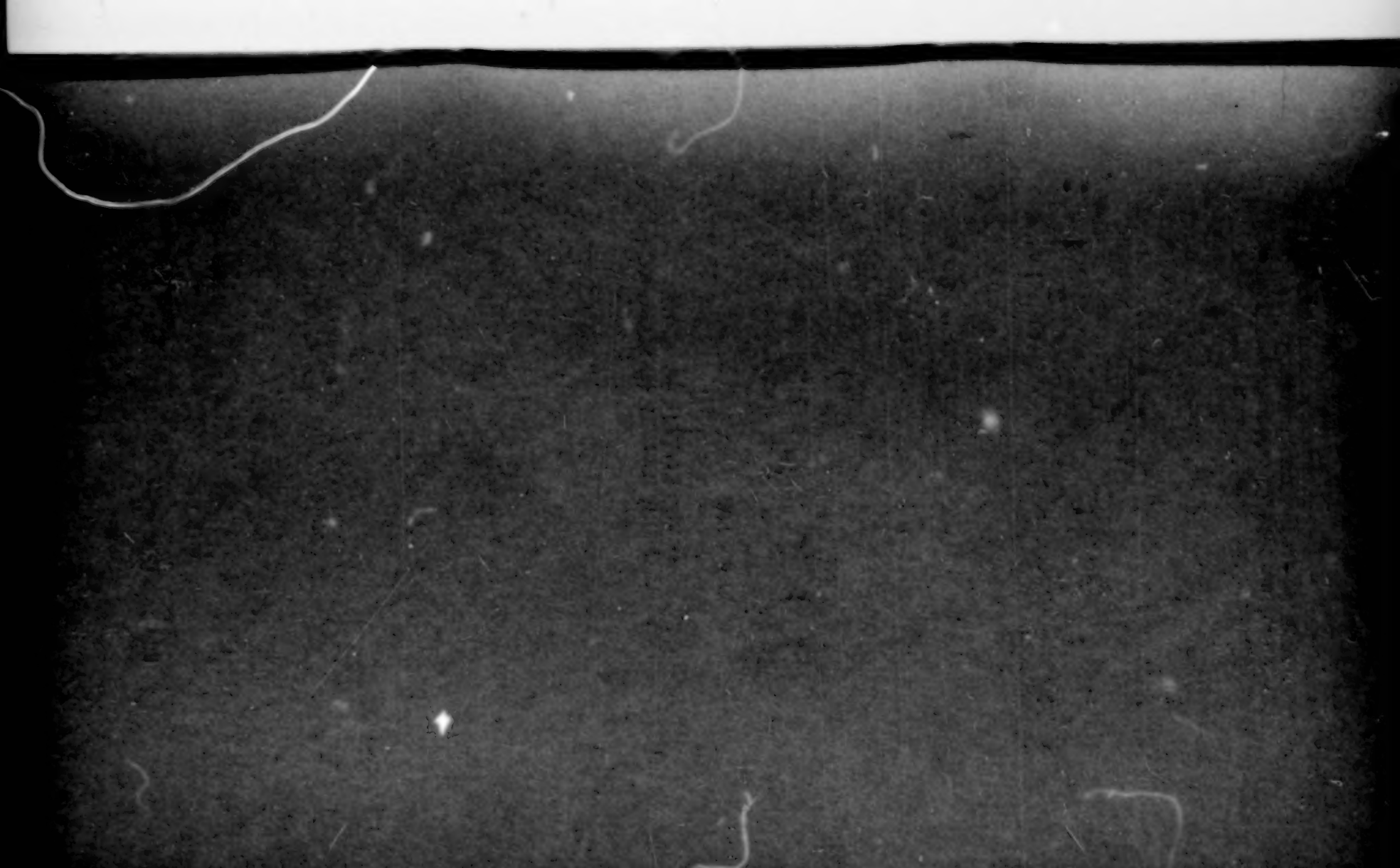

TABLE OF CONTENTS

Page

A. RELEVANT DOCKET ENTRIES OF THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT IN DOCKET NO. 87-3035 1

B. RELEVANT DOCKET ENTRIES OF THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT IN DOCKET NO. 87-3034 4

C. RELEVANT DOCKET ENTRIES OF THE UNITED STATES DISTRICT COURT OF THE VIRGIN ISLANDS IN DOCKET NO. 85-206 8

D. RELEVANT DOCKET ENTRIES OF THE UNITED STATES DISTRICT COURT OF THE VIRGIN ISLANDS IN DOCKET NO. 85-207 11

E. COMPLAINT FILED BY SUSAN ESPOSITO 14

F. COMPLAINT FILED BY LLOYD DEVOS 17

G. DRAFT ORDER TO SHOW CAUSE WHY PRELIMINARY INJUNCTION SHOULD NOT BE ISSUED 20

H. AFFIDAVIT OF SUSAN ESPOSITO 22

I. AFFIDAVIT OF LLOYD DEVOS 24

J. ORDER ENTERED BY THE UNITED STATES DISTRICT COURT OF THE VIRGIN ISLANDS ON JUNE 21, 1985, IN CIVIL NO. 85-206 26

K. ORDER ENTERED BY THE UNITED STATES DISTRICT COURT OF THE VIRGIN ISLANDS ON JUNE 21, 1985, IN CIVIL NO. 85-207 27

L. ANSWER FILED BY GEOFFREY W. BARNARD 28

TABLE OF CONTENTS—Continued

		Page
M.	STIPULATION OF FACTS	30
N.	AFFIDAVIT OF LLOYD DEVOS	32
O.	AFFIDAVIT OF GEOFFREY BARNARD	37
P.	MOTION FOR LEAVE TO INTERVENE FILED BY THE VIRGIN ISLANDS BAR ASSOCIATION	42
Q.	AFFIDAVIT OF PATRICIA D. STEELE	44
R.	ORDER ENTERED BY THE UNITED STATES DISTRICT COURT OF THE VIRGIN ISLANDS ON OCTOBER 29, 1986 GRANTING LEAVE TO INTERVENE	47
S.	MEMORANDUM TO ALL MEMBERS OF THE VIRGIN ISLANDS BAR ASSOCIATION	49
T.	AFFIDAVIT OF WILLIAM BLUM	51

RELEVANT DOCKET ENTRIES

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Docket No. 87-3035

FILINGS—PROCEEDINGS

DATE		
1987		
Jan.	16	Order (Chief Deputy Clerk) consolidating appeals for purposes of briefing and disposition on the merits, filed. (Cov. 87-3034/35) (mmd)
		SEE DOCKET SHEET NO. 87-3034 FOR COMPLETE DOCKET ENTRIES
Nov.	2	Motion by appellees for permission to file the petition for rehg. o/t w/serv. filed (cvs. 87-3034/5) (sa)
Nov.	3	Order (Clerk) granting above mot. with filing as of the date of this order filed (cvs. 87-3034/5)(sa)
Nov.	9	Order (Gibbons, Chief Judge, Seitz, Weis, Higginbotham Sloviter Becker Stapleton, Mansmann Greenberg Scirica Hutchinson & Roseen Cir. Judges) Ordering that the Clerk of this Ct. vacate the panel's opinion and judgment entered September 30, 1987 & list the case for rehg. before the Ct. In Banc at the convenience of the Ct. (cvs. 87-3034/5) filed sa
Dec.	16	At reargument in banc Ch.J. Gibbons directed cnsl. to have a transcript made from the tape of oral argmt. (Cvs. 87-3034/35) (ab)
1988		
Jan.	29	Transcript of hearing in banc rec'd for info of Ct. (Cvs. 87-3034/35) (as)
Feb.	8	Corrections to transcript received from Hodge, counsel for appee. Forwarded to Court. (Cvs. 87-3034/35)(as)

Mar. 31 Opinion on rehearing (Gibbons, Chief Judge, *Seitz,* Weis, Higginbotham, Sloviter, Becker, Stapleton, Mansmann, Greenberg, Hutchinson, Scirica, Cowan and Rosenn, Cir. Judges) filed. w/dissent by Higginbotham with whom Weis Greenberg Hutchinson and Scirica Cir. Judges join. (cvs. 87-3034/5) sa

Mar. 31 Judgment reversing and remanding to DC w/ instruction to enter summary judgments in favor of the plaintiffs. Csts txd agnst the appellees. (cvs. 87-3034/5) sa

Apr. 20 Mot. by Geoffrey W. Barnard Appellee to stay mandate to & including 5-23-88 w/serv. filed (cvs. 87-3034/5)sa

Apr. 19 Mot. by VI Bar association to stay the mandate to and including 5-23-88 w/serv. filed (cvs. 87-3034/5) sa

Apr. 25 Appellants' opposition to the mot. to stay the mandate pending application for certiorari (cvs. 87-3034/5) filed sa

Apr. 29 Order (Seitz, Cir. Judge) Staying the mandate to and including 5-23-88 (Geoffrey W. Barnard) filed (cvs. 87-3034/5) sa

Apr. 29 Order (Seitz, Cir. Judge) staying the mandate and including 5-23-88 (Virgin Islands Bar Association) filed (cvs. 87-3034/5) sa

May 5 Memorandum in reply to appellant's opposition to mot. to stay mandate Pending application for cert. w/serv. Rec'd (cvs. 87-3034/5) sa

May 18 Letter dated 5-11-88 frm. R. Eric Moore, Esq., withdrawing appearance of Diane Trace Warlick as counsel for the Virgin Islands Bar Association (cvs. 87-3034/5) filed sa

May 19 Mot. by appellee, Geoffrey Barnard to further stay the mandate to & incldg. 6-33-88 w/serv. fld. (cv. 87-3034/5) sa

May 23 Appellants' opposition to mot. for further stay of mandate w/serv. filed cvs. 87-3034/5) sa

May 24 Order (Seitz Cir. Judge) Further staying the issuance of the mandate to & including 6-3-88 filed (cvs. 87-3034/5) sa

May 27 Letter dated 5-24-88 from Maria Tankenson Hodge Esq. stating that appellee, Geoffrey Barnard fld. a pet. for cert. to the SC on 5-23-88 w/serv. Rec'd for the info. of the Ct. (cvs. 87-3034/5) sa

May 31 Mot. by VI Bar Assn. requesting that the law firm of Hunter, Colianni, Cole & Turner be substituted as counsel for the VI Bar Assn. in the place of the Law Offices of Eric Moore w/serv. (cvs. 87-3034/5) fld (sa)

June 13 Notice of Filing pet. for certiorari from the Clerk of the Supreme Court at SC No. 87-2008 on 6-8-88 filed (cvs. 87-3034/5) sa

July 5 Order from the Clerk of SC dated 6-30-88 Sc No. 87-2008 granting cert. The case is consolidated w/87-1939 *Geoffrey W. Barnard*, etc. v. *Susan Esposito Thorstenn, et al.* and total of one hour is allotted for oral argument. (cvs. 87-3034/5) filed sa

July 5 Order from the Clerk of SC dated 6-30-88 SC No. 87-1939 granting cert. The case is consolidated w/87-2008 *Virgin Islands Bar Association v. Susan Esposito Thorstenn, et al.* and a total of one hour is allocated for oral argument filed (cvs. 87-3034/5) sa

RELEVANT DOCKET ENTRIES

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Docket No. 87-3034

FILINGS—PROCEEDINGS

DATE 1987		
Jan.	16	Order (Chief Deputy Clerk) consolidating appeals for purposes of briefing and disposition on the merits, filed. (Cov. 87-3034/35) (mmd)
Feb.	4	Motion by aplts to expedite appeal, *and* letter dated 2-5-87 w/following proposed bing. schedule: Aplts' B&A to be filed 2-20-87, Aplee's brief to be filed 3-17-87, Aplt's RB, if any, to be filed 3-25-87, Hear Oral argument in V.I. St. Croix, during week *of* 4-27-87, *or* alternatively, argument in Phila., filed. (ad)
Feb.	11	Memorandum by aplees in opposition to aplts' mot. to expedite appeal, *with* enclosures, filed. (ad)
Mar.	3	Order (*Seitz,* Higginbotham & Sloviter, CJ) motion to expedite appeal denied, in view of denial parties shall notify Ct. whether they desire to have the matter listed for disposition in Philadelphia or V.I., filed. (ms) (cvs. 87-3034/5)
Mar.	16	Let dtd 3-11-87 from aplee requesting to have appeal listed in V.I., rec'd for Ct's information. (ms) (cvs 87-3034/5)
Mar.	18	Motion by aplts to have appeal heard in Phila., filed. (ms) (cvs 87-3034/5)
Mar.	24	Order (*Seitz,* Higginbotham & Rosenn, CJ) ORDERED that the above captioned matters be listed for disposition in V.I. during week of 4-27-87, filed. (ms) (cvs 87-3034/5)
Mar.	28	Notice of appelle/intervenor, VI Bar Association's joinder in the brief of appellee, Barnard, filed. (mgp) (Cvs. 87-3034/5)

Apr. 20 Motion by aplts to supplement apx, filed. (ms) cvs 87-3034/5)

Apr. 29 Order (*Seitz*, Higginbotham & Rosenn, CJ) ORDERED that motion to sup. apx is granted, filed. (ms) (cvs 87-3034/35)

June 26 Clerk's letter to counsel addressing the following: 1) Does this Ct have supervisory power over D.C. of VI? 2) If yes, is *Frazier v. Heebe, et al.* controlling re residency requirement? Applts' brief should be filed on or before 7/26/87 and appees' brief should be filed on or before 8/26/87. A reply brief may be filed on or before 9/8/87. (Cvs. 87-3034/5) (as)

Sept. 1 Notice of aplee/intervenor, V.I. Bar Assoc., joinder in sup. brief of aplee, filed. (ms) (cvs 87-3034/5)

Sept. 3 Let dtd 8-31-87 from aplt rec'd for Ct's info. (ms) (cvs 87-3034/5)

Nov. 2 Motion by appellees for permission to file the petition for rehg. o/t w/serv. filed (cvs. 87-3034/5) (sa)

Nov. 3 Order (Clerk) granting above motion w/filing as of the date of this order. filed (cvs. 87-3034/5) (sa)

Nov. 9 Order (Gibbons, Chief Judge, Seitz, *Weis*, Higginbotham Sloviter Becker Stapleton, Mansmann Greenberg Scirica Hutchinson and Rosenn, Cir. Judges) Ordering that the Clerk of this Court vacate the panel's opinion and judgment entered September 30, 1987 & list the case for rehg. before the Ct. In Banc at the convenience of the Ct. (cvs 87-3034/5) filed sa

Dec. 16 At reargument in banc Ch.J. Gibbons directed cnsl to have a transcript made from the tape of oral argmt. (Cvs. 87-3034/35) (ab)

1988

Jan. 29 Transcript of rehearing in banc rec'd for info of Ct. (Cvs. 87-3034/35) (as)

Feb. 8 Corrections to transcript received from Hodge, counsel for apee. Forwarded to Court (as) (cvs. 87-3034/35)

Mar. 31 Opinion on rehearing (Gibbons, Chief Judge, *Seitz,* Weis, Higginbotham, Sloviter, Becker Stapleton, Mansmann, Greenberg, Hutchinson, Scirica, Cowen and Rosenn, Cir. Judges) filed. w/dissent by Higginbotham with whom Weis Greenberg Hutchinson and Scirica Cir. Judges join. (cvs. 87-3034/5) sa

Mar. 31 Judgment reversing and remanding to DC w/ instruction to enter summary judgments in favor of the plaintiffs. Csts. txd agnst the appellees. (cvs. 87-3034/55) sa

Apr. 20 Mot. by Geoffrey W. Barnard, Appellee to stay mandate to & including 5-23-88 w/serv. filed (cvs. 87-3034/5) sa

Apr. 19 Mot. by VI Bar Association to stay the mandate to & including 5-23-88 w/serv. filed (cvs. 87-3034/5) sa

1988

Apr. 25 Appellants' opposition to the motions to stay the mandate pending application for certiorari. (cvs. 87-3034/5) filed sa

Apr. 29 Order (Seitz, Cir. Judge) staying the mandate to & including 5-23-88 (Geoffrey W. Barnard) filed (cvs. 87-3034/5) sa

Apr. 29 Order (Seitz, Cir. Judge) staying the mandate to & including 5-23-88 (Virgin Islands Bar Association) filed (cvs. 87-3034/5) sa

May 5 Memorandum in reply to appellant's opposition to mot to stay mandate pending application for cert. w/serv. Rec'd (cvs. 87-3034/5) sa

May	18	Letter dated 5-11-88 from R. Eric Moore, Esq. withdrawing appearance of Diane Trace Warlick as counsel for the Virgin Islands Bar Association (cvs. 87-3034/5) filed sa
May	19	Mot. by appellee, Geoffrey Barnard to further stay the mandate to & incldg. 6-3-88 w/ serv. filed (cvs. 87-3034/5) sa
May	23	Appellants' opposition to mot. for further stay of mandate w/serv. fld. (cvs. 87-3034/5) sa
May	24	Order (Seitz Cir. Judge) further staying the issuance of the mandate to and 6-3-88 filed (cvs. 87-3034/5) sa
May	27	Letter dated 5-24-88 from Maria Tankenson Hodge, Esq. stating that appellee, Geoffrey Barnard filed a petition for writ of cert to the SC on 5-23-88 w/serv. Rec'd for the information of the Ct. (sa) (cvs. 87-3034/5)
May	31	Mot. by VI Bar Assn. requesting that the law firm of Hunter, Colianni, Cole & Turner be substituted as counsel for the VI Bar Assn. in the place of the Law Offices of Eric Moore w/serv. (cvs. 87-3034/5) filed (sa)
June	13	Notice of Filing petition for certiorari from the Clerk of SC at Sc. # 87-2008 on 6-8-88 filed (cvs. 87-3034/5) sa
July	5	Order from the Clerk of SC dated 6-30-88 Sc No. 87-2008 granting cert. The case is consolidated w/87-1939 *Geoffrey W. Barnard,* etc. v. *Susan Esposito Thorsternn, et al.* and total of one hour is allotted for oral argument. (cvs. 87-3034/5) filed sa
July	5	Order from the Clerk of SC dated 6-30-88 SC No. 87-1939 granting cert. The case is consolidated w/ 87-2008 *Virgin Islands Bar Association v. Susan Esposito Thorstenn, et al.* and total of one hour is allotted for oral argument filed (cvs. 87-3034/5) sa

RELEVANT DOCKET ENTRIES

DISTRICT COURT OF THE VIRGIN ISLANDS

Civil No. 85-206

PROCEEDINGS

DATE		
1985		
June	1	COMPLAINT. cf
June	17	MEMORANDUM of law in support of action for injunction and relief. cf
June	17	AFFIDAVIT. in support of injunction and declaratory relief. cf
June	21	ORDER (ALC) that pltf. may sit the V.I. Bar exam for 7/31 and 8/1/85. cf
July	11	SUMMONS issued to Geoffrey W. Barnard executed on 7/11/85. cf
1986		
Feb.	10	MOTION for enlargement of time by deft. cf
Feb.	18	ORDER (ALC) that the time for deft. to resp. to pltfs. complt. is enlarged.
Feb.	18	CERTIFICATE OF service by deft. cf
Mar.	12	ANSWER by deft. cf
Mar.	31	STIPULATION of facts. cf
April	1	MOTION for summary judgment by pltfs. cf
April	1	MEMORANDUM of law in support of pltfs. mot. for summary judgment. cf
April	2	AFFIDAVIT of Susan Esposito. cf

April	2	CERTIFICATE of service. cf
June	3	CROSS-MOTION for summary judgment by defts. cf
June	3	MEMORANDUM of law in support of defts. mot. for summ. judg. and in opp. to plaintfs. mot. for summary judgment. cf
June	3	AFFIDAVIT in support of mot. for summ. judgm. cf
June	18	REPLY memo. of law in opp. to defts. mot. for summary judgment. cf
June	18	AFFIDAVIT of pltf. DeVos in support of opp. to defts' mot. for summ. judg. cf
Oct.	8	MEMORANDUM of law in support of mot. for leave to intervene and/or permission to appear as amicus curiae. cf
Oct.	8	MEMORANDUM of law in support of intervenors' mot. for summary judgment and in opp. to pltf's mot. for summary.
Oct.	8	MOTION for leave to intervene as a party in interest and/or for permission to file brief and appear as amicus curiae by V.I. Bar Association. cf
Oct.	8	CROSS-mot. for summary judgment by intervenor V.I. Bar Assoc. cf
Oct.	8	AFFIDAVIT of Patricia D. Steele in support of mots. cf
Oct.	29	ORDER (ALC) that mot. for leave to intervene is granted; that the cross mot. of intervenor be deemed filed; that the pleadings be amended to reflect the in-

		tervention of the V.I. Bar Association. cf
Dec.	8	MEMORANDUM OPINION (ALC). cf
Dec.	8	JUDGMENT (ALC) granting defts. cross mot. for summary judgment and intervenors cross mot. for summary judgement; that the complt are dismissed on the merits. cf
1987		
Jan.	6	NOTICE of appeal by pltfs. cf
Jan.	9	CERTIFIED copy of MEMO. & OPINION, JUDGMENT, NOTICE OF APPEAL AND DOCKET ENTRIES mailed to USCA along w/trans. letter. cf
Jan.	30	ORDER (USCA) denying petr. to expedite their appeal. EOD 2/4/87. cf
Sept.	30	JUDGMENT (USCA) that judgments of the D.C. entered on 12/8/86 are reversversed and the cause remanded to D.C. w/direction to enter summary judgments in favor of the pltfs. cf

RELEVANT DOCKET ENTRIES

DISTRICT COURT of the VIRGIN ISLANDS

Civil No. 85-207

DATE 1985	PROCEEDINGS
June 17	COMPLAINT. cf
June 17	MEMORANDUM of law in support of action for injunction and relief. cf
June 17	AFFIDAVIT in support of action for injunction and declaratory relief. cf
June 21	ORDER (ALC) that Lloyd Devos may sit the V.I. Bar exam scheduled for 7/31 and 8/1/85 that the Court reserves ruling on the matter of the eligibility of the above mentioned complt. cf
July 11	SUMMONS issued to Geoffrey W. Barnard-executed on 7/11/86.
DATE 1986	
Feb. 10	MOTION for enlargement of time by deft. cf
Feb. 18	ORDER (ALC) that the time for deft. to resp. to pltfs. complt is enlarged. cf
Feb. 18	CERTIFICATE of service by defts. cf
Mar. 12	ANSWER by deft. cf
Mar. 31	STIPULATION of facts. cf
April 1	MOTION for summary judgment by pltfs. cf
April 1	MEMORANDUM of law in support of pltfs. mot. for summary judgment. cf
April 2	AFFIDAVIT of Lloyd de Vos. cf

April	2	CERTIFICATE of service. cf
June	3	CROSS-MOTION for summary judgment by defts. cf
June	3	MEMORANDUM of law in support of defts. mot. for summ. judg. and in opp. to pltf. mot. for summary judgment. cf
June	3	AFFIDAVIT in support of mot. for summ. judgment. cf
June	18	REPLY Memo. of law in opp. to defts. mot. for summary judgment. cf
June	18	AFFIDAVIT of pltf. DeVos in support of opp. to defts. mot. for summ. judg. cf
Oct.	8	MOTION for leave to intervene as a party in interest and or for permission to file brief and appear as amicus curiae by V.I. Bar Association. cf
Oct.	8	MEMORANDUM of law in support of mot. for leave to intervene or for permission to file a brief and appear as amicus curiae by V.I. Bar Association. cf
Oct.	8	CROSS-MOTION for summary judgment by intervenor V.I. Bar. Assoc. cf
Oct.	8	MEMORANDUM of law in support of intervenors mot. for summary judgment and in opp. to pltfs. mot. for summary judgment. cf
Oct.	8	AFFIDAVIT of Patricia D. Steele in support of mots. cf
Oct.	29	ORDER (ALC) that mot. for leave to intervene is granted; that the cross mot. of intervenor be deemed filed; that the pleadings be amended to reflect the intervention of the V.I. Bar Association. cf

Dec.	8	MEMORANDUM OPINION (ALC). cf
Dec.	8	JUDGMENT (ALC) granting defts. cross mot. for summary judgment and intervenors cross mot. for summary judgment; that the complt are dismissed on the merits. cf
1987		
Jan.	6	NOTICE of appeal by pltfs. cf
Jan.	9	CERTIFIED copy of Memo. & Opinion, Judgment, Notice of Appeal and Docket entries mailed to USCA along w/trans. letter. cf
Jan.	30	ORDER (USCA) denying petr. to expedite their appeal. EOD 2/4/87. cf
Sept.	30	JUDGMENT (USCA) that judgments of the D.C. entered on 12/8/86 are reversed and the cause remanded to D.C. w/direction to enter summary judgment in favor of the pltfs. cf

District Court of the Virgin Islands
Civil No. 85-206

COMPLAINT

1. Jurisdiction is vested in this court by virtue of Section 22 of the Revised Organic Act of the Virgin Islands, 48 U.S.C., Section 1611, and Title 4, Section 32, Virgin Islands Code.

2. Plaintiff is an applicant for admission to the Virgin Islands Bar.

3. Plaintiff is an attorney at law having been admitted to practice before the highest courts of the states of New Jersey and New York.

4. Plaintiff has practiced law continuously since 1983 and is a member of the bar in good standing in each jurisdiction where she has been admitted to practice.

5. On April 22, 1985, plaintiff filed an application with the Committee of Bar Examiners for admission to the Virgin Islands Bar with the required application fees.

6. The application filed by plaintiff with the Committee of Bar Examiners for admission to the Virgin Islands Bar meets all the requirements for admission to the Virgin Islands Bar as set forth in Rule 56, Rules of the District Court of the Virgin Islands, 5 V.I.C. App. V ("Rule 56"), except those requirements, numbered 4 and 5 in paragraph (b) of Rule 56, relating to plaintiff's residence.

7. By letter dated May 28, 1985, defendant rejected said application and refused plaintiff the opportunity to sit for the Virgin Islands Bar Examination scheduled for

July 31 and August 1, 1985 on the basis that the application of plaintiff failed to conform with the requirements of Rule 56.

8. By its decision in *Supreme Court of New Hampshire v. Piper* (No. 83-1466, March 4, 1985), the Supreme Court of the United States held that the Privileges and Immunities Clause of Article IV, Section 2 of the United States Constitution prohibits a rule of court which makes residence in a jurisdiction a condition of admission to the bar.

9. The Privileges and Immunities Clause of Article IV, Section 2 of the United States Constitution is applicable to the Virgin Islands by virtue of Section 3, Revised Organic Act of the Virgin Islands, 48 U.S.C., Section 1561.

10. Refusal of admission of plaintiff to the Virgin Islands Bar by reason of the residence of plaintiff is in violation of Article IV, Section 2, Clause 1 of the United States Constitution.

WHEREFORE, Plaintiff prays that this Court:

1. DECLARE that those requirements, numbered 4 and 5 in paragraph (b) of Rule 56, relating to residency, are unconstitutional as applied to plaintiff; and

2. PERMANENTLY RESTRAIN AND ENJOIN defendant, its successors, agents, attorneys, and employees, and each and every one of them from enforcing those requirements, numbered 4 and 5 in paragraph (b) of Rule 56, relating to residency, as applied to plaintiff; and

3. PERMANENTLY RESTRAIN AND ENJOIN defendant, its successors, agents, attorneys, and employ-

ees, and each and every one of them, from preventing plaintiff from sitting for the Virgin Islands Bar Examination to be held July 31 and August 1, 1985;

4. Such other and further relief as the Court may deem to be just and proper.

Dated: June 14, 1985

Respectfully submitted,

/s/ William L. Blum

District Court of the Virgin Islands
Civil No. 85-207

COMPLAINT

1. Jurisdiction is vested in this court by virtue of Section 22 of the Revised Organic Act of the Virgin Islands, 48 U.S.C., Section 1611, and Title 4, Section 32, Virgin Islands Code.

2. Plaintiff is an applicant for admission to the Virgin Islands Bar.

3. Plaintiff is an attorney at law having been admitted to practice before the United States Supreme Court, the United States Courts of Appeals for the Second Circuit and Federal Circuit, the United States District Courts for the District of New Jersey and for the Southern District of New York, the United States Tax Court, the United States Customs Court, the United States Claims Court and the highest courts of the states of New Jersey and New York.

4. Plaintiff has practiced law continuously since 1974 and is a member of the bar in good standing in each jurisdiction where he has been admitted to practice.

5. On May 7, 1985, plaintiff filed an application with the Committee of Bar Examiners for admission to the Virgin Islands Bar with the required application fees. The application having been rejected and returned, but not received by plaintiff, on May 20, 1985, a duplicate original application was filed by plaintiff with the said Committee together with the required application fees.

6. The application filed by plaintiff with the Committee of Bar Examiners for admission to the Virgin

Islands Bar meets all the requirements for admission to the Virgin Island Bar as set forth in Rule 56, Rules of the District Court of the Virgin Islands, 5 V.I.C. App. V ("Rule 56"), except those requirements, numbered 4 and 5 in paragraph (b) of Rule 56, relating to plaintiff's residence.

7. By letters dated May 8, 1985 and May 28, 1985, defendant rejected said application and refused plaintiff the opportunity to sit for the Virgin Islands Bar Examination scheduled for July 31 and August 1, 1985 on the basis that the application of plaintiff failed to conform with the requirements of Rule 56.

8. By its decision in *Supreme Court of New Hampshire v. Piper* (No. 83-1466, March 4, 1985), the Supreme Court of the United States held that the Privileges and Immunities Clause of Article IV, Section 2 of the United States Constitution prohibits a rule of court which makes residence in a jurisdiction a condition of admission to the bar.

9. The Privileges and Immunities Clause of Article IV, Section 2 of the United States Constitution is applicable to the Virgin Islands by virtue of Section 3, Revised Organic Act of the Virgin Islands, 48 U.S.C., Section 1561.

10. Refusal of admission of plaintiff to the Virgin Island Bar by reason of the residence of plaintiff is in violation of Article IV, Section 2, Clause 1 of the United States Constitution.

WHEREFORE, Plaintiff prays that this Court:

1. DECLARE that those requirements, numbered 4 and 5 in paragraph (b) of Rule 56, relating to residency, are unconstitutional as applied to plaintiff; and

2. PERMANENTLY RESTRAIN AND ENJOIN defendant, its successors, agents, attorneys, and employees, and each and every one of them from enforcing those requirements, numbered 4 and 5 in paragraph (b) of Rule 56, relating to residency, as applied to plaintiff; and

3. PERMANENTLY RESTRAIN AND ENJOIN defendant, its successors, agents, attorneys, and employees, and each and every one of them, from preventing plaintiff from sitting for the Virgin Island Bar Examination to be held July 31 and August 1, 1985;

4. Such other and further relief as the Court may deem to be just and proper.

Dated: June 14, 1985

Respectfully submitted,

/s/ William L. Blum

District Court of the Virgin Islands
Civil No. 85-207

ORDER TO SHOW WHY A PRELIMINARY INJUNCTION SHOULD NOT BE ISSUED

Upon the annexed affidavit of Lloyd De Vos, verified on June 7, 1985, and on all the proceedings heretofore had herein, let the defendant show cause, if he has any, before the undersigned, Judge ————, of the District Court of the Virgin Islands, Division of St. Thomas and St. John, in the Federal Building, Charlotte Amalie, St. Thomas, United States Virgin Islands on the — day of ————, 1985, at — o'clock or as soon thereafter as counsel can be heard why a preliminary injunction should not be granted herein enjoining and restraining the defendant, and its successors, agents, attorneys and employees, and each and every one of them, from (1) RESTRAINING AND ENJOINING defendant, its successors, agents, attorneys, and employees, and each and every one of them from enforcing those requirements, numbered 4 and 5 in paragraph (b) of Rule 56 of the Rules of the District Court of the Virgin Islands, 5 V.I.C. App. V ("Rule 56"), relating to residency, as applied to plaintiff, (2) RESTRAINING AND ENJOINING defendant, its successors, agents, attorneys, and employees, and each and every one of them, from preventing plaintiff from sitting for the Virgin Islands Bar Examination to be held July 31 and August 1, 1985 and (3) granting such other and further relief as to the Court may seem just and proper.

Defendant's responsive papers and memorandum of law shall be served [sic] upon plaintiff no later than 5 p.m. in the afternoon of the — day of June, 1985.

Sufficient reason appearing, therefore it is:

ORDERED that service of a copy of this Order, together with copies of the papers upon which it was made upon the defendant on or before the — day of June, 1985, shall be deemed good and sufficient notice of this application; and it is further

ORDERED that pending the hearing and determination of this motion for a preliminary injunction, the defendant be and hereby is temporarily restrained from (1) enforcing those requirements, numbered 4 and 5 in paragraph (b) of Rule 56, relating to residency, as applied to plaintiff, and (2) preventing plaintiff from sitting for the Virgin Islands Bar Examination to be held July 31 and August 1, 1985.

SO ORDERED

Dated: Charlotte Amalie,
St. Thomas
U. S. V. I.
June —, 1985

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS

Civil No. 85-206

AFFIDAVIT

I, Susan Esposito, being duly sworn, depose and state:

1. I am an applicant for admission to the Virgin Islands Bar.

2. I am an attorney at law having been admitted to practice before the highest courts of the states of New Jersey and New York.

3. I have practiced law continuously since 1983 and am a member of the bar in good standing in each jurisdiction where I have been admitted to practice.

4. On April 22, 1985, I filed an application with the Committee of Bar Examiners for admission to the Virgin Islands Bar with the required application fees.

5. My application filed with the Committee of Bar Examiners for admission to the Virgin Islands Bar meets all the requirements for admission to the Virgin Islands Bar as set forth in Rule 56, Rules of the District Court of the Virgin Islands, 5 V. I. C. App. V ("Rule 56"), except those requirements, numbered 4 and 5 in paragraph (b) of Rule 56, relating to my residence.

6. By letter dated May 28, 1985, defendant rejected my application, and refused me the opportunity to sit for the Virgin Islands Bar Examination scheduled for July

31 and August 1, 1985 on the basis that my application failed to conform with the requirements of Rule 56.

Dated: June 7, 1985

/s/ Susan Esposito
Susan Esposito

IN THE DISTRICT COURT OF THE
VIRGIN ISLANDS

85-207

AFFIDAVIT

I, Lloyd De Vos, being duly sworn, depose and state:

1. I am an applicant for admission to the Virgin Islands Bar.

2. I am an attorney at law having been admitted to practice before the United States Supreme Court, the United States Courts of Appeals for the Second Circuit and Federal Circuit, the United States District Courts for the District of New Jersey and for the Southern District of New York, the United States Tax Court, the United States Customs Court, the United States Claims Court and the highest courts of the states of New Jersey and New York.

3. I have practiced law continuously since 1974 and am a member of the bar in good standing in each jurisdiction where I have been admitted to practice.

4. On May 7, 1985, I filed an application with the Committee of Bar Examiners for admission to the Virgin Islands Bar with the required application fees. The application having been rejected and returned, but not received by me, on May 20, 1985, I filed a duplicate original application with the said Committee together with the required application fees.

5. My application filed with the Committee of Bar Examiners for admission to the Virgin Islands Bar meets all the requirements for admission to the Virgin Islands Bar as set forth in Rule 56, Rules of the District Court

of the Virgin Islands, 5 V. I. C. App. V ("Rule 56"), except those requirements, numbered 4 and 5 in paragraph (b) of Rule 56, relating to my residence.

6. By letters dated May 8, 1985 and May 28, 1985, defendant rejected my application, and refused me the opportunity to sit for the Virgin Island Bar Examination scheduled for July 31 and August 1, 1985 on the basis that my application failed to conform with the requirements of Rule 56.

Dated: June 7, 1985

/s/ Lloyd De Vos
Lloyd De Vos

IN THE DISTRICT COURT OF THE
VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

SUSAN ESPOSITO, Plaintiff v. GEOFFREY W. BARNARD, in his capacity as Chairman of the Committee of Bar Examiners of the Virgin Islands Bar, and not personally.	)	CIVIL NO. 85-206

ORDER

AND NOW, this 21st day of June, 1985,

IT IS ORDERED that Susan Esposito may sit the Virgin Islands Bar examination scheduled for July 31 and August 1, 1985, upon condition, however, that the Court reserves ruling on the matter of the eligibility of the above-mentioned applicant for admission to the Bar of the Virgin Islands.

/s/ Almeric L. Christian
ALMERIC L. CHRISTIAN
Chief Judge

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

LLOYD DE VOS,	)	
	)	
Plaintiff	)	
	)	
v.	)	CIVIL NO. 85-207
	)	
GEOFFREY W. BARNARD, in his capacity as Chairman of the Committee of Bar Examiners of the Virgin Islands Bar, and not personally.	)	

ORDER

AND NOW, this 21st day of June, 1985,

IT IS ORDERED that Lloyd De Vos may sit the Virgin Islands Bar examination scheduled for July 31 and August 1, 1985, upon condition, however, that the Court reserves ruling on the matter of the eligibility of the above-mentioned applicant for admission to the Bar of the Virgin Islands.

/s/ Almeric L. Christian
ALMERIC L. CHRISTIAN
Chief Judge

IN THE DISTRICT COURT OF THE
VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

Civil Nos. 85-206 and 85-207

ANSWER

COMES NOW the defendant, by and through his undersigned counsel, and answering plaintiffs' complaints states:

1. Admitted

2. Admitted

3. Defendant lacks information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 3.

4. Defendant lacks information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 4.

5. Admitted

6. Admitted

7. Admitted, except that the applicants were subsequently permitted to take the bar examination by order of the court dated June 21, 1985, reserving, however, any ruling on the matter of the eligibility of the applicants for admission to the bar of the Virgin Islands.

8. The validity of the characterization of the decision of the United States Supreme Court in *Supreme Court of New Hampshire vs. Piper,* as set forth in paragraph 8 of plaintiffs' complaints, is denied.

9. The references to provisions of the United States Constitution and to the Virgin Islands Organic Act, while not being allegations of fact, are admitted.

10. Denied

WHEREFORE defendant prays that the court dismiss plaintiffs complaints, enter an order denying plaintiffs admission to the bar of the Virgin Islands unless and until they satisfy the requirements of Rule 56 of the District Court of the Virgin Islands, and for such other and further relief as the court deems just in the premises.

DATED: 3/11/86

Respectfully submiited,

/s/ Maria Hodge
Maria Tankenson Hodge, P.C.

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS

Civil Nos. 85-206 and 85-207

STIPULATION OF FACTS

It is hereby stipulated by and between the above entitled parties, by their respective attorneys, as follows:

1. Plaintiff Lloyd De Vos is an attorney at law having been admitted to practice before the United States Supreme Court, the United States Courts of Appeals for the Second Circuit and Federal Circuit, the United States District Courts for the District of New Jersey and for the Southern District of New York, The United States Tax Court, The United States Customs Court, the United States Claims Court and the highest courts of the states of New Jersey and New York.

2. Plaintiff Lloyd De Vos has practiced law continuously since 1974 and is a member of the bar in good standing in each jurisdiction where he has been admitted to practice.

3. Plaintiff Susan Esposito Thorstenn is an attorney at law having been admitted to practice before the highest courts of the states of New Jersey and New York.

4. Plaintiff Susan Esposito Thorstenn has practiced law continuously since 1983 and is a member of the bar in good standing in each jurisdiction where she has been admitted to practice.

5. Plaintiff Susan Esposito Thorstenn resides in New York and Plaintiff Lloyd De Vos resides in New

Jersey. Both plaintiffs maintain offices for the practice of law in New York.

6. Neither plaintiff has the present intention to take up residence in the Virgin Islands.

Dated: 3/31/86

By: /s/ William L. Blum
William L. Blum
De Vos & Co.
Attorneys and Counselors

3/31/86

By: /s/ Maria Hodge
Maria Tankenson Hodge, P.C.
Attorney for Defendant

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS

Civil Nos. 85-206 and 85-207

AFFIDAVIT

I, Lloyd De Vos, being duly sworn, depose and state:

1. I am a resident of New Jersey and an attorney-at-law licensed to practice in the States of New York and New Jersey. I am a partner with a Virgin Islands admitted attorney in a Virgin Islands law firm known as De Vos & Co. The Virgin Islands law firm consists of a resident managing partner, two resident associates, and one attorney who serves in an "of counsel" position. In addition, when the work load so requires, attorneys from other offices of our firm work in the Virgin Islands office for temporary periods to assist and are supervised by the resident managing partner. While I am not yet admitted to the bar of the Virgin Islands, and thus do not practice law in the Virgin Islands, I am responsible for administrative matters of the Virgin Islands firm. These responsibilities require me to travel frequently to the Virgin Islands and to communicate with the Virgin Islands from New York and elsewhere in the United States and around the world by telephone, telex, and telefax nearly every business day. Thus I am very familiar with the availability and reliability of communications and transportation between the Virgin Islands and the mainland United States.

2. Over the past eighteen months I have visited the Virgin Islands from New York or Miami approximately twenty times. These visits required me to travel on vir-

tually every day of the week and nearly every month of the year, including the so-called "tourist season" from December through April. My travel has been exclusively by air primarily utilizing the New York gateway and occasionally the Miami and San Juan gateways. In all of this travel to the Virgin Islands I have never been unable to secure a reservation on a commercial flight for the day I desired to travel, even when I made my reservations on the day of or on the day before my intended travel date. The Virgin Islands is served by four major trunk air carriers, American Airlines, Eastern Air Lines, Pan American World Airways, and Midway Express Airlines. During the tourist season these airlines provide approximately seven to nine flights daily in each direction from the Virgin Islands to the mainland United States. At other times of year the number of daily flights is reduced to approximately five to six. In addition the Virgin Islands is presently served by approximately six commuter airlines which provide service to San Juan, Puerto Rico where connections are available to at least one dozen daily flights to the mainland United States, including non-stop and through flights to New York, Newark, Chicago, Philadelphia, Atlanta, Boston, St. Louis, Miami, and Baltimore. The St. Thomas-San Juan route has consistently been among the top five commuter airline routes in the United States in terms of number of passengers carried and number of flights and the St. Croix-San Juan route has consistently been among the top ten.

3. Telephone communications between the Virgin Islands and the United States is at mainland standard. I communicate with the Virgin Islands on the average of

twice every business day when I am not in the Virgin Islands. I communicate with various locations in the mainland United States and to other countries on the average of twelve times a day when I am in the Virgin Islands. The Virgin Islands office of De Vos & Co. has Wide Area Telephone Service (WATS) available for the use of our attorneys and clients, the most modern telex service, and access to modern telefax machines that transmit facsimiles of documents over telephone lines. In my experience, about 99 percent of my telephone connections to and from the Virgin Islands are made without the necessity for redialing. Although occasionally I have experienced static on a telephone connection to the Virgin Islands, this does not happen significantly more often than in calls I make within the United States or locally in New York and New Jersey. Similarly, I have not experienced problems with the quality of telecopier or telex transmissions either to or from the Virgin Islands.

4. The modern telecommunications and transportation services now available in the Virgin Islands have essentially integrated the Territory into the United States for many purposes. It is no more difficult to communicate or travel over the 1100 miles of water that separates the Virgin Islands from the closest point on the mainland than to do so over shorter distances in the United States. Conferences with clients, other lawyers, and court officials are easily accomplished by telephone and telex. In the infrequent cases where face-to-face meetings must be held, they can be scheduled on short notice due to the frequency and availability of scheduled air service. In no case should client contact or contact with other attorneys or court

officials be difficult or impossible for the Virgin Islands admitted attorney residing in the mainland nor should the clients of such an attorney be expected to suffer detrimental consequences as result of the non-residence of the attorney.

5. Granting admission to non-residents may increase the work load of the Committee of Bar Examiners. To address this possibility the Committee should be expanded preferably to include some non-residents. These non-resident members would not only ease the burden on the other members but could provide assistance in checking the qualifications of non-resident applicants for admission. In any event, the increased burden with regard to checking qualifications of potential admittees is relatively small in that the Committee has traditionally utilized the services of the National Conference of Bar Examiners to compile most of this information. Upon my admission to the Virgin Islands Bar, I will be pleased to volunteer to serve on the Committee.

6. The responsibility to attend to late-scheduled court appearances, whether in a civil, criminal, or appointed-criminal matter, can be most easily met by a non-resident attorney with the assistance of other members of his firm who would be expected to be thoroughly familiar with the background and status of the case. This may be in contrast to the associated local counsel of a *pro hac vice* admittee who may not be required to be thoroughly familiar with the case. In our law firm, it is our practice to require that at least two attorneys be familiar with the proceedings in a litigation matter in order to handle any

last minute problems that may arise while one of the attorneys may be unavailable.

Dated: June 16, 1986

/s/ Lloyd De Vos
Lloyd De Vos

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS

CIVIL NOS. 85-206 and 85-207

AFFIDAVIT

COMES NOW Geoffrey Barnard, who, after being duly sworn, deposes and says:

1. That I am the Chairman of the Committee of Bar Examiners of the Virgin Islands Bar, duly appointed by the Chief Judge of the District Court of the Virgin Islands, and in such capacity I am familiar with the following information concerning Rule 56 of the District Court of the Virgin Islands with respect to its requirements for residence applicable to applicants seeking admission to the Virgin Islands Bar.

2. The United States Virgin Islands are located approximately 1,500 miles from the Continental United States and can be reached only by air or by sea. Commercial air transportation from the Continental United States to the United States Virgin Islands from the closest point, in Florida, takes not less than two and one-half hours. At many times of the year, particularly during what is locally referred to as "the tourist season" between December and April, reservations may be totally unavailable for commercial flights from the Continental United States for protracted periods of time. Travel to the United States Virgin Islands by sea can be accomplished, for practical purposes, only by cruise ship which takes at a minimum several days of sea travel from the closest mainland point.

3. Telephone communication between the United States Virgin Islands and the Continental United States, while substantially improved in recent years, remains significantly less reliable than that normally expected within the Continental United States. It is often difficult to secure a long distance connection to a distant point, or to maintain a fully audible conversation without interference from static, voice fade outs, transmission gaps, or disconnections. Mail delivery is often unreliable and almost always involves material delay.

4. There can be no meaningful comparison between a lawyer commuting between immediately adjacent states and attorneys seeking to reside in the Continental United States and maintain a practice of law in the Virgin Islands. A client's need for access to his lawyer, whether to confer about matters requiring immediate decision or for purposes of litigation, civil or criminal, would, in the opinion of the Committee of Bar Examiners, present substantial risk of detrimental consequence to the client of a non-resident lawyer for whom the preceeding description of travel and communication problems could make such client contact difficult or impossible.

5. There are foreseeable reasons why many lawyers not resident in the United States Virgin Islands might wish to accept a small number of cases and undertake the effort and expense associated with admission to the Bar of this jurisdiction, which would not apply to most locations in the United States. This is true because the United States Virgin Islands is widely thought of as a resort destination to which persons may wish to travel for purposes of vacationing rather than making a fulltime ca-

reer. For this reason, a professional might well think it financially justifiable to seek admission to the Virgin Islands' Bar without making a commitment to the practice of law here with the intention of occasionally combining a vacation visit with some brief attention to a client's affairs. Under these circumstances, such a lawyer could well fail to familiarize himself with and maintain a current mastery of changing local rules and procedures, as well as local law.

6. The Committee of Bar Examiners in the Virgin Islands consists of the named defendant, who is an official of the court, and four private attorneys who volunteer time to serve when appointed by the court as bar examiners. These attorneys must not only prepare, administer and grade the examinations, but are responsible for scrutinizing the ethical standards of applicants for admission. The resources of the small Virgin Islands Bar could never accommodate a serious and adequate investigation into the professional competence by examination or the ethical standards of non-resident lawyers, both because the absence of such lawyers from the jurisdiction would make investigation of their conduct, history and practice unmanageable, and because, with increasing numbers of applicants for admission to the bar, the small committee would find it totally impossible to give and administer meaningful examination.

7. The Committee has also felt that the admission of non-residents to practice law in the Virgin Islands would increase the risk of unethical persons being permitted to practice law in that it would be virtually impossible for so small community with such limited resources to discover episodes of unethical conduct by such attorneys at their

distant states of residence, and, thus to protect our residents from unscrupulous lawyers.

8. The Rules of the District Court, with respect to residence, require that in order to be an active member of the Virgin Islands Bar, one must be a resident of the Territory. An attorney who has been admitted to the Bar of the Virgin Islands and then later terminates his residence is relegated to an inactive status and cannot resume active status unless he resumes his residency in the Territory.

9. The District Court has also had experience with permitting non-resident lawyers to practice on a *pro hoc vice* basis in the Territory upon condition that they associate with local counsel. This practice, while permitted on a limited basis, has proven to present many problems including the frequent complaint, when local counsel is called upon to appear at a hearing or proceeding to which the distant lawyer cannot come because of travel obstacles, that the local attorney is not or cannot be ready for the proceeding in that he has relied upon the distant lawyer as lead counsel. This has frequently inconvenienced the court and resulted in loss of judicial resources and inconvenience to parties and other counsel. If this were permitted for all non-resident lawyers, the already heavily burdened district court calendar would, in the Committee's view, almost certainly become totally unmanageable.

10. The District Court of the Virgin Islands also requires by rule that all attorneys undertake on a rotating basis the duty to represent indigents in criminal matters in which the public defender is not able to serve. This represents a sizeable demand upon all attorney's time

requiring three or four appointments per year on average. This also requires that such attorneys be ready on immediate notice to respond to a need to counsel with a client and to give him immediate advice, as well as to appear at early preliminary proceedings. Even if, by rule, such non-resident applicants to the bar were required to do their equitable share of such work for indigents, the foreseeable detriment to the clients themselves from delinquent, absent or unavailable council is a serious concern for the Committee and the court.

FURTHER AFFIANT SAYETH NOT

DATED: June 2, 1986

/s/ G. M. Barnard
Geoffrey Barnard

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

SUSAN ESPOSITO THORSTENN, Plaintiff, vs. GEOFFREY W. BARNARD, in his capacity as Chairman of the Committee of Bar Examiners of the Virgin Islands Bar, and not personally, Defendant.	CIVIL No. 206/1985
LLOYD DE VOS, Plaintiff, vs. GEOFFREY W. BARNARD, in his capacity as Chairman of the Committee of Bar Examiners of the Virgin Islands Bar, and not personally, Defendant.	CIVIL No. 207/1985

MOTION FOR LEAVE TO INTERVENE AS A PARTY IN INTEREST AND/OR FOR PERMISSION TO FILE BRIEF AND APPEAR AS AMICUS CURIAE

The Virgin Islands Bar Association, by and through its undersigned counsel, respectfully moves pursuant to

Rule 24(b) of the Federal Rules of Civil Procedure for an Order granting leave for the Virgin Islands Bar Association to intervene in the above-captioned litigation as a party in interest. In the alternative, the Virgin Islands Bar Association requests permission to file a brief and appear in the action as *amicus curiae*. The undersigned has been authorized by resolution of the Board of Governors to file this Motion and represent the interests of the members of the Virgin Islands Bar Association in all pending litigation challenging the validity of the residency requirements for admission to the Bar.

This Motion is based upon the fact that the outcome of this litigation may substantially affect the Virgin Islands Bar Association and its members. This Motion is further supported by the Memorandum submitted herewith.

DATED: October 7, 1986

/s/ Diane Trace Warlick
DIANE TRACE WARLICK
Law Offices of R. Eric Moore
P.O. Box 3086
Christiansted, St. Croix 00820
Attorney on behalf of Virgin
Islands Bar Association

IN THE DISTRICT COURT OF THE
VIRGIN ISLANDS

Civil Nos. 85-206 and 85-207

AFFIDAVIT

TERRITORY OF THE VIRGIN ISLANDS)
DISTRICT OF ST. CROIX) ss:

I, PATRICIA D. STEELE, being duly sworn, deposes and states:

1. That I am President of the Virgin Islands Bar Association. I am familiar with Rule 56 of the District Court of the Virgin Islands with respect to requirements for admission to the Virgin Islands Bar (integrated).

2. That this Affidavit is based upon my personal knowledge in my capacity as President of the Virgin Islands Bar Association.

3. That I personally receive approximately three inquiries per month from non-resident attorneys regarding the requirements for admission to practice law in the Virgin Islands. As most of these inquiries do not result in application for admission, it may be presumed that a significant number of these individuals do not intend to reside or maintain an office in the Virgin Islands.

4. That, while telecommunications between the Virgin Islands and the continental United States have improved substantially in the last decade, they remain erratic and conversations are frequently impaired by static, echoes, transmission gaps and disconnections.

5. That all members of the Virgin Islands Bar are required to accept appointments to represent indigent criminal defendants approximately four times per year. These appointments require the attorney to appear for hearings and face-to-face consultations with the defen-

dants on short notice. It has been a long-standing rule of the District Court that this obligation cannot be fulfilled by arranging for another attorney to appear in the place of the appointed counsel.

6. That there are very lengthy delays between the issuance of opinions by the Virgin Islands Courts and their publication, if they are published. The most recent volume of the Virgin Islands Reports contains opinions issued in 1983 and early 1984. Slip opinions are generally not disseminated to attorneys. They are available only by reviewing the opinions in the office of the law clerks for the District Court judges. Many significant opinions are "published" only in the St. Croix and St. Thomas Supplements.

7. That most of the essential work of the Virgin Islands Bar Association, including investigation of grievances and unethical conduct, are performed by volunteer members of the Virgin Islands Bar. With the current size and geographically limited area of practice of members of the Virgin Islands Bar, it is already difficult to effectively carry out the committee functions on a timely basis. With an increased size of the Bar and members residing in distant geographic locations, it would be virtually impossible for these volunteer committees to effectively handle the duties assigned to them, which are necessary to protect members of the public from unethical and/or incompetent practice. It is difficult enough to get resident members of the Bar to travel from St. Thomas to St. Croix and vice versa to attend meetings of the Bar Association and its committees.

8. I have reviewed the Affidavit of Geoffrey W. Barnard, submitted in support of his Motion for Summary Judgment, and I concur in all the statements he has made.

DATED: 10/7/86

/s/ Patricia D. Steele
PATRICIA D. STEELE

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

SUSAN ESPOSITO THORSTENN, Plaintiff, vs. GEOFFREY W. BARNARD, in his capacity as Chairman of the Committee of Bar Examiners of the Virgin Islands Bar, and not personally, Defendant.	)	CIVIL NO. 206/1985
LLOYD DE VOS, Plaintiff, vs. GEOFFREY W. BARNARD, in his capacity as Chairman of the Committee of Bar Examiners of the Virgin Islands Bar, and not personally, Defendant.	)	CIVIL NO. 207/1985

ORDER

Upon Motion by the applicant, Virgin Islands Bar Association, for leave to Intervene as a party in interest,

the Court being fully advised in the premises, and it appearing that the applicant's defense and the main action involve a common question of law and fact; and it further appearing that the intervention will not unduly delay or prejudice the adjudication of the rights of the original parties; it is hereby

ORDERED, ADJUDGED AND DECREED:

That the Motion for Leave to Intervene is Granted; and further,

ORDERED that the Cross-Motion of the Intervenor be deemed filed; and further,

ORDERED that the pleadings be amended to reflect the intervention of the Virgin Islands Bar Association.

DATED: October 29, 1986

/s/ Almeric L. Christian
JUDGE OF THE DISTRICT COURT

VIRGIN ISLANDS BAR ASSOCIATION
P.O. BOX 990, ST. THOMAS U.S.V.I. 00801
TELEPHONE (809) 776-3470
March 4, 1987

Board of Governors:
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MEMORANDUM

TO: All Members of the Virgin Islands Bar Association

FROM: HENRY C. SMOCK, Chairman, Continuing Legal Education Committee

RE: Territorial and District Court Opinions

The Virgin Islands Bar Association has recently been given the responsibility of distributing all Territorial and District Court opinions. Henceforth, neither the Territorial nor the District Court shall distribute opinions other than through the Virgin Islands Bar Association.

Any member wishing to subscribe to the opinions should send a check in the amount of $25.00 *payable to the Virgin Islands Bar Association* to either of the following persons:

HENRY C. SMOCK, ESQ.
Grunert, Stout & Smock
P.O. Box 1030
St. Thomas, Virgin Islands 00801
Telephone: 774-1320

PATRICIA D. STEELE, ESQ.
Law Offices of R. Eric Moore, Esq.
P. O. Box 3086
Christiansted
St. Croix, Virgin Islands 00820
Telephone: 773-4150

Your $25.00 check will ensure that you receive opinions for the space of one year, beginning April 1, 1987. Thereafter, the Virgin Islands Bar Association reserves the right to change the subscription rate in accordance with the demand and the output of both Courts.

If you have any questions concerning this new subscription service, please feel free to call me at 774-1320.

Henry C. Smock

THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

Nos. 87-3034 and 87-3035

AFFIDAVIT

TERRITORY OF THE VIRGIN ISLANDS)
DISTRICT OF ST. THOMAS & ST. JOHN) ss.:

I, WILLIAM L. BLUM, being duly sworn, deposes and states:

1. I am an attorney at law admitted to the Virgin Islands Bar and I am counsel to the Appellants in this appeal.

2. As an attorney admitted to the Virgin Islands Bar, I regularly receive mail from the Virgin Islands Bar Association, Appellee-Intervenor in this appeal, regarding matters of interest to the Bar.

3. On April 16, 1987 I received a memorandum, a copy of which is attached as Exhibit A to the motion which this affidavit accompanies and supports, from the Chairman of the Virgin Islands Bar Association's Continuing Legal Education Committee.

4. The memorandum is dated March 4, 1987, after the date appellant's brief in this matter was due and prior to the date appellees' briefs were due, and offers subscriptions to members of the Virgin Islands Bar to all opinions of the District and Territorial Courts of the Virgin Islands. In order to obtain such subscriptions, members of the bar are directed by the memorandum to send payment to either the Committee Chairman or to Patricia D. Steele, Esq. who submitted an affidavit on behalf of the Appellee-Intervenor in the proceeding below (App. 66)

which included a statement that local court slip opinions are not generally available to attorneys except by visiting the Court House. The court below adopted this position in its decision (App. 85-86).

5. Such offer of subscriptions has a direct bearing on one of the important issues on which the court below based its decision and which was challenged in appellant's brief, namely the availability of a less restrictive means to ensure that non-resident members of the Virgin Islands Bar are kept aware of current developments in local law than prohibiting their admission to the bar.

DATED: April 17, 1987

/s/ William L. Blum
WILLIAM L. BLUM